IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 285 of 2003 (M/B)

Harjeet Singh S/o Sant Singh
R/o Station Road, Kotdwar,
District Pauri Garhwal & 36 others. …….. Petitioners

Versus

1. Nagar Palika, Kotdwar,
   Through its President,
   District Pauri Garhwal.
2. executive Officer/ Secretary,
   Municipality, Kotdwar,
   District Pauri Garhwal.
3. district Magistrate,
   District Pauri Garhwal.
4. State of Uttar Pradesh,
   Through its Secretary,
   Urban Development and Planning,
   Lucknow. ……. Respondents.

Mr. Narayan Dutt, Advocate for the petitioners.
Mr. N.C. Gupta, Standing Counsel for the State of Uttaranchal.

JUDGMENT

Coram: Hon. Rajeev Gupta, C.J.
Hon. M.M. Ghildiyal, J.

RAJEEV GUTPA, C.J. (Oral)

Mr. Narayan Dutt, Advocate for the petitioners.

None for respondents Nos. 1 and 2.

Mr. N.C. Gupta, Standing Counsel for respondents Nos. 3 & 4.

They are heard.

2. The petitioners have filed this writ petition for the following reliefs:

> "a. a writ, order or direction in the nature of mandamus commanding and directing the respondents not to demolish the shops of petitioners not interfere in any manner in their business and further restrain the respondents from demolishing the petitioners shops by force.
>
> b. any other writ, order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case."

3. The petitioners apprehend demolition of their shops situated near Hanuman Mandir, Station Raod, Kotdwar, District Pauri Garhwal.

4. A Divisions Bench of this Court, while considering the claims of similarly started persons in the case of **Devi Dayal and others Vs. Nagar Palika, Kotdwar and others** reported in **2004(2) U.D. 496,** observed in para 6 as under:

> "6. We are completely convinced that the petitioners have no right whatsoever and are merely encroachers. If they are so held, there will be nothing wrong in the Municipality trying to evict them by legal means. The petitioners have no right in law."

5. In the present case, too, we are convinced that the petitioners have no rights in their favour. In fact, they are merely encroaches.

6. In this view of the matter, we do not find any illegality in the action of the Nagar Palika.

7. The petitioners, however, may approach the Municipality for allotment of alternative place, which shall be considered by Nagar Palika Parishad, Kotdwar in accordance with law.

8. With the above observation, the writ petition stands disposed of.

(M.M. Ghildiyal, J.) **(Rajeev Gupta, J.)**
28.03.2006 **28.03.2006**

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